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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/868,333	06/18/2001	Josef Winter	01P077	8909

466 7590 10/06/2004

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EXAMINER

CECIL, TERRY K

ART UNIT PAPER NUMBER

1723

DATE MAILED: 10/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/868,333

Applicant(s)

WINTER ET AL.

Examiner

Mr. Terry K. Cecil

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 June 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 4, 6-11, 26-31, 33 and 34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 4, 6-11, 26-31, 33 and 34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

The 103 rejections of all the pending claims of the prior office action have not changed.

Response to Arguments

1. Applicant's arguments filed 6-29-2004 have been fully considered but they are not persuasive because of the following reasons:

- Concerning claim 4, applicant argues that Lindberg does not teach the ribs that project from the side wall a distance of 1-2 mm which would enable the canister to be removed from a male mould member during a moulding process while still being sufficiently flexible. Firstly, it is pointed out that the ability of the canister to separate from the mould member would not only be contributed to the rib size but also to the characteristics of the male mould member which is NOT claimed in combination with the filter element. Secondly, an apparatus (including a product-by-process) must be distinguished from the prior art in terms of its structure. The only difference between the canister of Lindberg and the applicant's claimed invention of claim 4, is the size of the ribs. Lindberg doesn't specify his rib size. As explained in the prior office action, relative sizing is insufficient for patentability. The size of the rib would depend upon the diameters of the canister and the paper roll to be inserted (both of which have not been specified by the applicant). Optimization of the rib size depending upon the desired compactness of a paper roll having a certain diameter would be within ordinary skill.
- Applicant's argument in the first paragraph on page 3, that the inventions are different since in Lindberg the ribs impinge on the paper and in the instant application, the paper

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impinges upon the ribs, is unconvincing since the claimed compressed configuration is taught.

- Concerning claim 27, as shown in e.g. figure 1, since the distance between the first rib and the second rib is different than the distance between the second and third ribs, the limitations of claim 27 are met.
- Concerning claim 29, the grid work forms an annular channel (the central opening) and is itself an annular projection (the grid has both an inner and outer circumference).
- The rule 132 is unconvincing. Firstly, there is no indication that Lindberg is drawn to any particular scale in which the measurement of the ribs could be determined. Secondly, the disadvantages of page 5, also depend upon the size of the paper roll and canister, which are not claimed. Concerning page 7, the size of the canister wall in relation to the size of the ribs is not claimed.

Conclusion

2. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

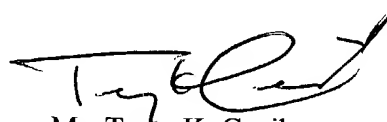
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be

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calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

3. Contact Information:

- Examiner Mr. Terry K. Cecil can be reached at (571) 272-1138 at the Carlisle campus in Alexandria, Virginia for any inquiries concerning this communication or earlier communications from the examiner. Note that the examiner is on the increased flextime schedule but can normally be found in the office during the hours of 8:30a to 4:30p, on at least four days during the week M-F.
- Wanda Walker, the examiner's supervisor, can be reached at (571) 272-1151 if attempts to reach the examiner are unsuccessful.
- The Fax number for this art unit for official faxes is 703-872-9306.
- Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Mr. Terry K. Cecil
Primary Examiner
Art Unit 1723

TKC
October 3, 2004